

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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| In re: JAMES A. ORLANDO, II NICOLE M. ORLANDO, Debtors, FIFTH THIRD BANK, Movant, v. JAMES A. ORLANDO, II, NICOLE M. ORLANDO and NATALIE LUTZ CARDIELLO, Chapter 7 Trustee, Respondents. | Bankruptcy No. 18-23134-GLT Chapter 7 Doc. No. |
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MOTION OF FIFTH THIRD BANK FOR RELIEF FROM THE AUTOMATIC STAY

AND NOW, comes Fifth Third Bank (the “Movant”), by and through its undersigned counsel, Bernstein-Burkley, P.C files this *Motion for Relief from the Automatic Stay* (the “Motion”), and in support thereof states as follows:

PARTIES

1. Movant is a corporation with offices in Grand Rapids, MI.
2. Respondents, James A. Orlando, II, and Nicole M. Orlando (the “Debtors”), are an adult individuals with a place of residence located at 310 Windsor Drive, Coraopolis, PA 15108.
3. Natalie Lutz Cardiello is the duly appointed Chapter 7 Trustee and is currently acting in such capacity.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 157(a) and 1334. This matter is a “core” proceeding under 28 U.S.C. §157(b)(2)(G).

5. Venue is appropriate pursuant to 28 U.S.C. §§ 1408 and 1409.

6. Sections 105 and 362 of title 11, United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended, “Bankruptcy Code”) and Rules 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”) serve as the statutory bases for the relief requested by Movant in this Motion.

FACTUAL BACKGROUND

7. On August 3, 2018 (the “Petition Date”), the Debtors filed a voluntary petition for relief under chapter 7 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (as amended, the “Bankruptcy Code”) in the United States Bankruptcy Court for the Western District of Pennsylvania (the “Court”) at case number 18-23134-GLT (the “Case”).

8. Movant holds a Mortgage on the real property located at 1319 Barr Avenue, Pittsburgh, PA 15205-0000 (the “Property”), pursuant to a Mortgage recorded on October 25, 2006 at Instrument No. 2006-119367 in the public records of Allegheny County, PA. A copy of the Mortgage and Equity Credit Agreement and Security Agreement for the Mortgage are attached hereto as **Exhibit A**. As indicated in both the Mortgage and the Equity Credit Agreement, the amount of the loan is \$37,600.00 and the date of origination is August 18, 2006.

9. The property is currently valued at \$117,000 per a Broker Price Opinion dated 2/7/2018. Attached hereto as **Exhibit B**, is a valuation of the Property.

10. The current total debt as of the date of the filing of this Motion is \$37,027.16. This consists of a principal balance of \$34,793.50, and accrued interest of \$1,318.66. Debtors are currently in arrears to the Movant for regular monthly payments as of November 2017 through July 2018, totaling \$1,057.00.

11. Based on the Movant’s information and knowledge, there is a first mortgage on the Property with an original principal balance of \$86,250.00 dated July 28, 2003, which is assigned to CitiMortgage. The Movant is in the second lien position and is unaware of any outstanding taxes due on the Property.

12. The Movant is not mentioned in the Debtors bankruptcy petition and no statement of intent has been filed by Debtors.

13. Movant seeks relief from stay to foreclose on the property.

14. The Movant also requests that this Honorable Court waive the fourteen (14) day stay imposed by Bankruptcy Rule 4001(a)(3).

WHEREFORE, Movant, Fifth Third Bank respectfully submits the foregoing Motion and request that this Honorable Court enter an Order granting the relief from Automatic Stay with respect to the real property located at 1319 Barr Avenue, Pittsburgh, PA 15205-0000. It is further requested that this grant of relief from stay shall remain in full force and effect, notwithstanding any subsequent conversion of this case to another chapter.

Respectfully submitted,

BERNSTEIN-BURKLEY, P.C.

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Dated: August 30, 2018